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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,114	07/29/2003	Harold Carrison	1001.1659101	6987
28075 7590 12/10/2007 CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			EXAMINER MENDEZ, MANUEL A	
			ART UNIT 3763	PAPER NUMBER
			MAIL DATE 12/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/629,114

Applicant(s)

CARRISON ET AL.

Examiner

Manuel Mendez

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-81 is/are pending in the application.
- 4a) Of the above claim(s) 9-11, 20, 25-40 and 50-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-19, 21-24, 41-49, and 53-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :Jan 26, 2005 and November 3, 2003.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1-8, 12-19, and 21-24** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In relation to claim 1, line 9, the phrase "deploying the second deployable structure within the vessel" is unclear since the claim discloses in lines 6 and 7 that the second deployable structure is disposed at a location proximal or distal to the treatment site. A location proximal or distal to the treatment site has to be within the vessel. Accordingly, correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**Claims 1 and 41** are rejected under 35 U.S.C. 102(e) as being anticipated by **Kokish et al.** The cited patent discloses an apparatus having a first deployable structure and a second deployable structure. Figures 3 and 4, show a first deployable structure disposed adjacent the treatment site and a second deployable disposed at a location proximal or distal the treatment site. Figure 6 shows the introduction of treatment material into the vessel proximate of the treatment site and deploying the first deployable structure adjacent the treatment site to create movement of the treatment material adjacent the treatment site.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2-8, 12-19, 21-24, 42-49, and 53-64** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kokish et al. in view of Chien et al. or Halevy, O'Connor, Jang, or Bradshaw, and in further view of Keith et al. or Kraus et al.**

Kokish et al. does not expressly disclose the infusion of a blood clot dissolving drug and the use of alternative structures such as a net, basket, filament, paddle, impeller, and filter assemblies. However these particular enhancements are considered well known in the art as evidenced by the teachings of Chien et al., Halevy, O'Connor, Jang, or Bradshaw.

Chien et al. discloses the infusion of various blood clotting dissolving drugs such as TPA, reteplase, and urikinase. Concerning the alternative deployable structures, Halevy discloses a catheter having a brush, filament, and paddle assemblies. O'Connor discloses the use of a net or basket assembly in figure 4. Jang shows in figures 1 and 2, the use of a filter assembly in a balloon catheter. Bradshaw shows in figure 1, an impeller-shaped assembly for use in a catheter.

Based on the above observations, for a person of ordinary skill in the art, modifying the apparatus disclosed by Kokish et al. with the capability of infusing blood clotting dissolving drugs, and the modification of inflatable balloon with alternative assemblies, as taught by Chien et al., Halevy, O'Connor, Jang, or Bradshaw, would have been considered obvious in view of the proven conventionality of these enhancements and their respective contributions to the catheter arts.

Finally, concerning (1) the use of a balloon catheter as an intra-cranial catheter and (2) the over-the-wire capability, both enhancements are conventional in the art as

evidenced by the teachings of Keith et al. and Kraus et al. The Keith et al. patent demonstrates that catheters equipped with over-the-wire capabilities are conventional in the art and Kraus et al. demonstrates that it is conventional to use over-the-wire balloon catheters for intra-cranial applications. Accordingly, for a person of ordinary skill in the art, modifying the Kokish et al. for use in intra-cranial applications and with an over-the-wire capability would have been considered obvious in view of the proven conventionality of these enhancements.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel Mendez whose telephone number is 571-272-4962. The examiner can normally be reached on 0730-1800 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Manuel Méndez  
Primary Examiner  
Art Unit 3763

MM